

BEFORE THE
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 448

IN THE MATTER OF:

March 2, 1965

Archie B. Davis, d/b/a White-)	Application No. 283
Way Sightseeing Tours Company)	
for Amendment of Certificate)	Docket No. 65
of Public Convenience and)	
Necessity No. 3.)	

APPEARANCES:

L. LEE BEAN, Attorney for Archie B. Davis, d/b/a White-Way Sightseeing Tours Company, applicant.

S. HARRISON KAHN, Attorney for Alexandria, Barcroft and Washington Transit Company and The Gray Line, Inc., protestants.

MANUEL J. DAVIS, Attorney for Washington, Virginia and Maryland Coach Company, Inc., protestants.

This matter arises upon an application of Archie B. Davis, d/b/a White-Way Sightseeing Tours Company, to amend its Certificate of Public Convenience and Necessity No. 3. That Certificate authorizes, inter alia, special operations, in round-trip sightseeing tours within the District of Columbia, and from the District of Columbia to Arlington National Cemetery and Mount Vernon, Virginia.

The proposed amendment would permit the transportation in bus-size vehicles of people from motels in Virginia (within the Metropolitan District) to the District of Columbia, and return, restricted to people who have made prior arrangements to take the tours beginning in the District of Columbia.

Notice of the application was published as required. Protests to the application were made by the Alexandria, Barcroft and Washington Transit Company (A.B. & W.), The Gray Line, Inc., and Washington, Virginia and Maryland Coach Company, Inc. (W.V. & M).

A hearing on this matter was held by an examiner on November 18 and 25, 1965. The record is comprised of a transcript of 208 pages of testimony and 14 exhibits. Two witnesses testified for the applicant and three witnesses testified for the protestants. Upon conclusion of the hearing, the matter was submitted to the Commission for decision.

Archie B. Davis was a "grandfather" applicant who was granted a Certificate of Public Convenience and Necessity (No. 3), which limits origin of sightseeing tours to points within the District of Columbia. He seeks authority to originate passengers in Arlington and Fairfax Counties and the Cities of Alexandria, Falls Church and Fairfax, Virginia, subject to the restriction of a sale prior to pickup.

The evidence adduced shows that Davis began operating taxicabs for sightseeing tourists in the early 1930's. In the late 1930's applicant began operating taxicab-limousines and acquired a District of Columbia sightseeing guide license. In 1950, he purchased Interstate Commerce Commission Certificate No. 96081 from National Tours, Inc. He also established the Washington Information Service for sale of tours to tourists in 1954. This Service operates through booths located outside the District of Columbia (Stafford, Virginia, for example), where Washington-bound tourists may obtain information, room accommodations, and sightseeing tour reservations.

The applicant testified that until recent years the bulk of people taking sightseeing tours stayed in hotels in the District of Columbia; however, in recent years most of his passengers stay in motels in the Northern Virginia area and that these people expect and require that they be transported from these Virginia motels to the beginning of the tour, in the District of Columbia. He further stated that he has been rendering this service in taxicab-limousine vehicles. He claimed this has increased his cost of operations and discommoded the passengers in that they have to transfer from the small vehicles to a large bus-size vehicle and that this has resulted in unsatisfactory service to the passengers, in his opinion. He concluded that all these factors taken into consideration proved that the public convenience and necessity

require the enlargement of his operating authority to allow him to pick up the Virginia-based passengers in bus-size vehicles.

The applicant did admit that on a few occasions in the summer of 1964 he had operated the service proposed in the application, but had ceased upon being advised by this Commission that he did not have the authority to do so.

Applicant also submitted an exhibit (No. 6) which described the total passengers carried on a daily basis for the period of June-October, 1964, and it also gave a breakdown of the total passengers into three categories: (1) Passengers picked up in the District of Columbia; (2) passengers picked up in Virginia and (3) the number of people picked up in the District of Columbia, but who had driven in from Virginia motels. The Exhibit showed a total of 3,073 passages carried; 1,313 passengers picked up in Virginia; 988 passengers picked up in the District of Columbia; and 772 passengers who drove in from Virginia motels.

The second and final witness for applicant was Prince Albert Denson, who is a part-time employee of the applicant and a taxicab tour operator at other times. His testimony was generally duplicative of the applicant's.

The applicant provided the transportation of passengers from Virginia to the point of origin of its tours in the District of Columbia in limousine-taxicab service, which transportation is exempt from the certificate requirements of Section 4(a) by the Section 1(c) proviso. This latter Section, when applicable, allows up to eight passengers, excluding the driver, to be transported at a time. In considering whether there is a need for the service, applicant's evidence (Exhibit 6) shows that the following vehicle needs existed:

Number of days on which	During the month of:					Total	Total
	June	July	Aug.	Sept.	Oct.	Days	Days of
more than -- 8 passengers ¹	6	21	15	12	7	61	153
-- 16 passengers	4	10	10	3	0	27	153

were picked up in Virginia.

Thus, approximately 60 percent of the time no more than one (1) limousine was needed, and more than 80 percent of the time

1. Tr. 122-123.

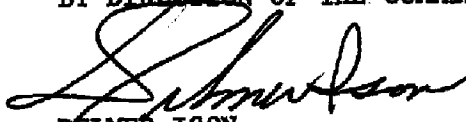
no more than two (2) limousines were needed². We give little weight to the number of people driving in from Virginia, for there is no evidence to show that these people would ride a bus-size vehicle in preference to driving their own cars. A limousine was available, but not used. There is no basis to assume that a vehicle with a larger seating capacity would induce them to leave their cars and ride a bus. Further, as applicant has sought a restriction on the proposed authority that would require a prior sale before pickup in Virginia, we conclude that the type of vehicle utilized had, and will have, little or no effect on the number of tickets sold in Virginia.

No supporting evidence from non-applicant sources was presented. The burden is on the applicant to prove that the proposed service is, or will be, required by the public convenience and necessity.

Based on the evidence of the applicant, the Commission is of the opinion that the applicant has failed to meet its burden. The proposed service might provide additional convenience to some few passengers by eliminating a transfer to another vehicle; however, such an accommodation can hardly be said to be required by the public convenience and necessity, especially when the grant of such authority would be virtually to create a new carrier service in the Virginia area. Nor can the Commission subscribe to the view that the multiple use of limousines with the attendant duplicative expenses, required the proposed service, in view of the extremely small number of times that more than one or two limousines were needed. Therefore, the Commission finds that the proposed service is not, and will not be, required by the public convenience and necessity. Consequently, the Commission sees no necessity to discuss the applicant's fitness and financial capabilities. Nor should the Commission discuss the evidence of the protestants and their allegations of adequacy of existing service. The application should be denied.

THEREFORE, IT IS ORDERED that the application of Archie B. Davis, d/b/a White-Way Sightseeing Tours Company, be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:


DELMER ISON
Executive Director

2. Applicant Davis testified there were other passengers picked up, but no evidence was submitted to support this allegation.